

XT> Before the> FEDERAL COMMUNICATIONS COMMISSION

> Washington, D.C. 20554

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>	Notice of Proposed Rulemaking)	
>)	CS Docket
>	No. 02-52		
>	Appropriate Regulatory Treatment for)	
>	Broadband Access to the Internet Over)	
>	Cable Facilities)	
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> COMMENTS OF THE CITY OF MURFREESBORO, TENNESSEE

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> These comments are filed by the City of Murfreesboro, Tennessee in
> support of the comments filed by the Alliance of Local Organizations
> Against Preemption (the "Alliance"). Like the Alliance, the City of
> Murfreesboro believes that (a) local communities should be able to require
> cable operators to obtain additional authorizations to use and occupy
> public rights of way to provide cable services, and to enforce existing
> authorizations that have been granted for the service; (b) should be able
> to obtain fair and reasonable compensation for use and occupancy of the
> public rights of way to provide non-cable services; and (c) should be able
> to regulate cable companies in their provision of non-cable services, as
> provided under the Cable Act.

> These comments will also provide information regarding the status of
> cable modem service in our community.

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> 1. Our community and the status of cable modem service.
> Murfreesboro is a City of 72,000. It is served by Comcast, which
> has approximately 22,000 subscribers. The cable system serving our
> community offers subscribers a 750 Mghz system with over 400 channels.
> Cable modem service is offered in our community.

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> 2. Our franchise and cable modem service.

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> Our franchise was issued July 12, 1973 and did not directly address
> cable modem service. However, ORDINANCE 98-O-37 (see attachment A)
> amended the franchise to include internet services provided on the cable
> system to be included with the franchisee's gross subscriber revenues for
> calculating franchisee fee payments to the City. Pursuant to that
> ORDINANCE 98-O-37, we were entitled to receive franchise fees on cable
> modem service. We received \$61,942.65 in cable modem franchise fees in
> 2001. These payments were made in consideration of the grant of the
> franchise. Our franchise was written to permit the operator to provide
> both cable services and other services, as long as the operator complied
> with the franchise terms. We estimate that we will lose \$750,000 over the
> next five years if we cannot charge a fee on revenues from cable modem
> service.

> Neither the franchise requirements nor the fees have prevented or
> delayed the roll-out of cable modem service in our community.

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> 3. How we regulate cable modem service.
> We regularly receive complaints from customers regarding the
> services provided by cable operators. These include complaints about
> traditional video programming services and about cable modem services.
> Responding to these complaints requires significant staff time and effort.
> There are many unique customer service problems associated with
> cable modem services. In addition, it is often difficult, if not
> impossible to separate regulation of cable modem service from the
> regulation of cable service in many critical respects (also see attachment
> B):
> * Cable modem service is marketed jointly with cable service.
> * When we get complaints about promotional practices, the complaint
> may apply to both services.
> * A single bill is sent for cable modem and cable services, so billing
> complaints involve both.
> As a result, when one service has problems, the quality of the other
> service can be affected. Customers are advised on their bill by the
> cable operator that they can call our office with complaints, and as far
> as we can tell, at no time does the operator advise the customer that
> protections accorded with respect to cable service do not apply with
> respect to cable modem service. In our view, there is a substantial and
> continuing need to protect consumers of cable modem service, in light of
> the complaints we receive, and because of its close tie to video services.

> Cable modem service is also subject to the following requirements
> under our franchise:
> * the operator is required to provide cable modem service throughout
> its service area, and is prohibited from redlining.
> * the operator is prohibited from discriminating against potential
> customers.
> * the operator is prohibited from demanding exclusive contracts as a
> condition of providing service to MDUs and others.

> 4. Our community and broadband deployment.
> Our community believes it is very important to encourage
> broadband deployment, and to encourage development of broadband
> applications. We also believe that in order to achieve the promise of
> broadband, broadband has to be available to the entire community, as far
> as possible. We want to avoid knowledge and opportunity gaps created
> because some parts of the community have access to broadband information,
> while others do not.

> To that end, our community devotes significant resources to take
> advantage of the information highway and to extend its benefits to all by
> bringing the Internet to the local Linebaugh Library and the schools. The
> funds that we obtain from cable modem franchise fees can help support
> these and other activities. If we lose those funds, it will be more
> difficult to protect consumers, and to promote broadband deployment in
> this community.

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> submitted,

Respectfully

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> Alan
> Bozeman, Cable Television Coordinator

> City of
> Murfreesboro, TN
>
> 111 West Vine Street
> Murfreesboro, TN 37130
> 615 848-3245
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> Staff Attorney for the City of Murfreesboro, TN
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> June 17, 2002
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